

**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241
BY A PERSON IN CUSTODY**

INSTRUCTIONS---READ CAREFULLY

1. **Use This Form** – If you are a pretrial detainee challenging your pre-conviction custody, a federal prisoner challenging the execution of your sentence or actions taken by the Bureau of Prisons, or in other situations where relief is not available under 28 U.S.C. § 2254 or 28 U.S.C. § 2255.

Do Not Use This Form –

*IF YOU ARE CHALLENGING THE CONSTITUTIONALITY OF YOUR STATE COURT CONVICTION OR SENTENCE. INSTEAD, USE THE FORM ENTITLED “PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY.”

*IF YOU ARE CHALLENGING YOUR FEDERAL CONVICTION OR SENTENCE. INSTEAD, USE THE FORM ENTITLED “MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY A PERSON IN FEDERAL CUSTODY.”

2. **Readable** – You may either type or neatly handwrite the information on the following form. It must be readable.
3. **Signed Under Penalty of Perjury** – To submit your petition, it must be signed. Your signature indicates that the petition is signed “under penalty of perjury.” This means that any false statement of a material fact presented in your petition may serve as a basis for prosecution and conviction for perjury. Your signature does **not** have to be witnessed by a notary public. The petition may also be signed by a person authorized to sign it for you, such as an attorney.
4. **Copies and Proper Court** – When the petition is fully completed, you must mail the **original and two (2) copies** to: Clerk of Court, United States District Court for the Eastern District of Wisconsin, 517 East Wisconsin Avenue, Milwaukee, WI 53202.
5. **All Grounds** – You must include all grounds for relief in this petition and the facts supporting each ground for relief. If you fail to do so, you may be prevented from presenting additional grounds at a later date.
6. **Legal Citations and Arguments** – You must answer all applicable questions. However, you should not cite to legal authorities (*i.e., case law or statutes*) **on this form**. If you submit a supporting memorandum in addition to this form, it must not exceed fifteen (15) pages. Excess pages will not be considered.
7. **Fee** – You must either (a) pay the filing fee of \$5.00 or (b) if you do not have the \$5.00, you may request permission to proceed *in forma pauperis* (as a poor person), in which event you must complete and sign the petition and affidavit attached to this petition and have an authorized officer at the penal institution complete and sign the attached certificate. You must also have an authorized officer attach a printout of your prison trust account activity statement for the six months prior to the filing of your petition.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

_____, Petitioner
Full Name *(under which you were convicted)*

Prisoner Number

Place of Confinement

vs.

_____, Respondent
**Name of Warden, Superintendent, Sheriff, or
authorized person having custody of Petitioner**

Docket No. _____
(to be supplied by Clerk)

**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241
BY A PERSON IN CUSTODY**

Caution: THIS IS NOT THE FORM TO BE USED IF YOU CLAIM THAT YOU ARE INNOCENT OF THE CRIME(S) FOR WHICH YOU WERE CONVICTED, YOU WERE FOUND GUILTY BY A STATE COURT IN VIOLATION OF THE LAWS OR CONSTITUTION OF THE UNITED STATES, OR THAT YOUR FEDERAL SENTENCE OR CONVICTION IS UNLAWFUL.

I. GENERAL INFORMATION

A. Your name (*under which you were convicted*)

Other names used

B. Place of confinement

C. Address of place of confinement

II. SUBJECT OF THIS PETITION

A. Check the **type** of decision or action that you are challenging:

☐ Denial of parole

☐ Revocation of parole

☐ Disciplinary matter

☐ Revocation/calculation of good time credits

☐ Detainer/illegal pretrial detention

☐ Other (*describe briefly the type of decision or action involved*)

B. Who made the decision or took the action?

C. Date of decision or action

D. Was there a hearing of any kind?

☐ Yes

☐ No

SUBJECT OF THIS PETITION - continued

If yes,

1. First Hearing:

- a. Date _____
- b. Location _____
- c. Conducted by _____
- d. Result _____

2. Second Hearing:

- a. Date _____
- b. Location _____
- c. Conducted by _____
- d. Result _____

E. Were you represented by an attorney, counselor, or by a staff representative at any hearing?

☐ Yes ☐ No

If yes, give name and address

F. If you are challenging your illegal pretrial detention, complete the following:

- 1. Charge(s) _____

SUBJECT OF THIS PETITION - continued

2. Name and location of court(s) in which charge(s) is/are pending

3. Case or docket number(s)

4. Date of arrest or date that you were initially confined on charge(s)

G. If you are in custody after conviction and sentencing, complete the following:

1. Offense(s)

2. Name and location of court which imposed the sentence

3. Case or docket number(s)

4. Date of conviction

5. Date of sentencing

6. Length of sentence

7. Did you appeal the conviction?

☐ Yes

☐ No

If yes, attach a copy of the decision(s) that resolved your appeal and answer the following questions.

a. First appeal:

1. Court

2. Case or docket number(s)

3. Grounds raised

SUBJECT OF THIS PETITION - continued

4. Result _____

5. Date _____

b. Second appeal:

1. Court _____

2. Case or docket number(s) _____

3. Grounds raised _____

4. Result _____

5. Date _____

8. Have you challenged **this** sentence in any other post conviction proceeding?

☐ Yes ☐ No

If yes, attach a copy of the decision(s) that resolved your challenge and answer the following questions:

a. Court _____

b. Case or docket number(s) _____

c. Grounds raised _____

SUBJECT OF THIS PETITION - *continued*

d. Result _____

e. Date _____

III. PREVIOUS APPEALS/ADMINISTRATIVE REMEDY PROCEDURES

A. Did you appeal the decision or action listed in Section II(A) to a federal court previously?

☐ Yes ☐ No

If yes, attach the decision(s) that resolved your appeal and answer the following questions.

1. Date of filing appeal _____

2. Grounds raised _____

3. Result _____

4. Date _____

B. Have you filed any previous lawsuit(s) related to your **present** claim?

☐ Yes ☐ No

If yes, attach the decision(s) that resolved your previous suit and answer the following questions.

1. Name and location of court _____

2. Date of filing _____

3. Case or docket number(s) _____

4. Nature of suit _____

5. Grounds raised _____

PREVIOUS APPEALS/ADMINISTRATIVE REMEDY PROCEDURES - continued

6. Result _____

7. Date _____

- C. If your claim concerns a federal parole matter (*for example, denial, modification, or revocation of parole*), complete the following:

Did you appeal the decision to the Regional Commissioner?

☐ Yes ☐ No

If yes, attach the Regional Commissioner's decision on your appeal and answer the following questions.

1. Date of filing appeal _____

2. Grounds raised _____

3. Result _____

4. Date _____

- D. Did you appeal the decision to the National Appeals Board/U.S. Parole Commission?

☐ Yes ☐ No

If yes, attach the National Appeals Board/U.S. Parole Commission's decision on your appeal and answer the following questions.

1. Date of filing appeal _____

2. Grounds raised _____

3. Result _____

PREVIOUS APPEALS/ADMINISTRATIVE REMEDY PROCEDURES - continued

4. Date _____

E. If your claim concerns something other than parole, (*for example, a disciplinary matter*), complete the following about administrative remedy procedures. (*If you are a federal prisoner, see 28 C.F.R. § 542.10.*)

1. Did you attempt to resolve your complaint informally?

☐ Yes ☐ No

2. Did you file a formal complaint?

☐ Yes ☐ No

3. Did you appeal to the warden?

☐ Yes ☐ No

4. Did you appeal to the Secretary of Corrections or to the Regional Commissioner?

☐ Yes ☐ No

5. Did you appeal to the General Counsel (*if applicable*)?

☐ Yes ☐ No

6. If you did not use the available administrative remedy procedure, explain why you did not.

F. Attach **copies** of your incident report or parole rationale (*where appropriate*), your request(s) for an administrative remedy and any response(s) you received. If you cannot do so, explain why the materials are unavailable.

State concisely every ground supporting your claim that you are being confined unlawfully. Summarize briefly the **facts** supporting each ground. If the space provided is insufficient to set forth your grounds for relief and/or supporting facts, you may attach extra page(s) to this form.

However, as stated in paragraph six (6) of the Instructions, you should not cite to legal authority (*i.e.*, *case law or statutes*) **on this form**. If you wish to cite to legal authority, you may do so in a separate memorandum no longer than fifteen (15) pages.

Ground One _____

[illegible]

GROUND FOR RELIEF - continued

Ground Two _____

Supporting FACTS *(Briefly summarize the facts without citing cases or law.)*

Ground Three _____

Supporting FACTS *(Briefly summarize the facts without citing cases or law.)*

Ground Four _____

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

V. REQUEST FOR RELIEF

State exactly what you want the court to do for you.

VI. DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, hereby declare under penalty of perjury that the foregoing information is true and correct.

Signed this _____ day of _____, 20____.

Signature of Petitioner

(Signature of lawyer, if any)

If you are signing the petition and are not the petitioner, state your relationship to the petitioner and explain why the petitioner is not signing this petition.

VII. CERTIFICATE OF INMATE MAILING - *Optional*

If you deposit your petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 in your prison/institutional/jail mailing system and attach first-class postage pre-paid, and complete and sign this statement, you will establish the filing date as the date of deposit in that mailing system.

I, the undersigned, hereby declare under penalty of perjury that I placed this petition for a writ of habeas corpus under 28 U.S.C. § 2241 in the prison/institutional/jail mailing system with prepaid, first-class postage

on _____.
(month, day, year)

Signed this _____ day of _____, 20_____.

Signature of Petitioner

Instructions for Completing the Petition and Affidavit to Proceed Without Prepayment of Fees and/or Costs – Read Carefully

1. Purpose of Form - This form may be used to establish indigency for the purpose of (1) obtaining a waiver of the applicable filing fee for your action; (2) establishing financial eligibility for the appointment of counsel; or (3) waiving of other fees, such as fees for transcripts or subpoenas.

2. Signed Under Penalty Of Perjury - To submit your petition and affidavit, it must be signed. Your signature indicates that the Petition and Affidavit is signed "under penalty of perjury." This means that any false statement of a material fact presented in your petition may serve as a basis for prosecution and conviction for perjury. Your signature does **not** have to be witnessed by a notary public.

3. If You Are A Non-Prisoner Bringing a Civil Action, You Are Advised - The filing fee for a civil action (other than a petition for habeas corpus relief pursuant to 28 U.S.C. § 2241, § 2254 or a motion pursuant to 28 U.S.C. § 2255) is \$250.00. If you are bringing a petition for habeas corpus relief pursuant to 28 U.S.C. § 2241, § 2254 or a motion pursuant to 28 U.S.C. § 2255, refer to number five of these instructions. If you have the money to pay the filing fee, you should send a cashier's check or money order for \$250.00, payable to the clerk of court with your complaint.

If you do not have enough money to pay the full filing fee at the time your action is filed, you may petition the court to proceed without prepayment of fees and costs by using the attached form. Upon receipt of your complaint and petition, the court will screen the complaint. The court shall dismiss your complaint if (1) your allegation of poverty is untrue - i.e., if your petition and affidavit to proceed without prepayment of fees contains false information; (2) the action is frivolous or malicious; (3) your complaint does not state a claim on which relief can be granted; or (4) you sue a defendant for money damages and that defendant is immune from such relief. 28 U.S.C. § 1915(e).

If your petition is granted, you will proceed *in forma pauperis* (IFP). This means that the \$250.00 filing fee will be waived.

If your petition is denied because you are financially ineligible to proceed IFP, you will be required to pay the full \$250.00 filing fee. Your suit will not proceed unless the fee is paid in full.

4. If You Are a Prisoner Who Is Bringing a Civil Rights or Other Civil Action, You Are Advised -

In accordance with the provisions of the Prison Litigation Reform Act (PLRA), prisoners are obligated to pay the full filing fee of \$250.00 for a civil action. 28 U.S.C. § 1915(b)(1). If multiple prisoners are bringing a single action, one filing fee is required per prisoner.

If you have the money to pay the filing fee, you should send a cashier's check or money order for \$250.00, payable to the clerk of court with your complaint.

If you do not have enough money to pay the full filing fee at the time your action is filed, you may petition the court to proceed without prepayment of fees and costs by using the attached form. If your petition is granted, you will pay the \$250.00 filing fee in installments, beginning with an initial partial filing fee. The initial partial filing fee will be calculated from a certified copy of your prison trust account statement that shows transactions for the last six months. **The trust account statement must be filed in support of your petition.**

Instructions - continued

(Statements are required for any prison or jail trust accounts you have had over the prior six months). Failure to do so may result in the petition being denied. The initial partial filing fee will be 20 percent of:

- (1) the average monthly deposits to your account for the immediately preceding six-month period,
or
- (2) the average monthly balance in your account for that same six-month period, whichever amount is greater.

You will be required to pay the initial partial filing fee out of your account if funds exist. 28 U.S.C. § 1915(b)(1)(A) & (B).

After the initial filing fee is paid, monthly installments equal to 20 percent of your preceding month's income will be withdrawn from your account and forwarded to the court. However, if the amount in your account is less than \$10.00, no installment will be withdrawn. Withdrawals will routinely occur until the full \$250.00 filing fee is paid. 28 U.S.C. § 1915(b)(2).

Regardless of whether some or all of the filing fee has been paid, the court is required to screen your complaint. The court shall dismiss the complaint if (1) your allegation of poverty is untrue - i.e., if your petition and affidavit to proceed without prepayment of fees contains false information; (2) the action is frivolous or malicious; (3) your complaint does not state a claim on which relief can be granted; or (4) you sue a defendant for money damages and that defendant is immune from such relief. 28 U.S.C. § 1915(e); 28 U.S.C. § 1915A.

With respect to claims based on prison conditions, no action may be brought under 42 U.S.C. § 1983 or any other federal law by a prisoner confined in a correctional institution until the available administrative remedies are exhausted. 42 U.S.C. § 1997e.

Note: If, while you are a prisoner, you file three or more actions which are dismissed as frivolous or malicious or for failure to state a claim upon which relief may be granted, then you will be prohibited from bringing any other actions IFP unless you are in imminent danger of serious physical injury. 28 U.S.C. § 1915(g).

5. If You Are a Prisoner or Pretrial Detainee Who Is Filing a Petition Pursuant to 28 U.S.C. § 2241 § 2254 or a Motion Pursuant to § 2255, You Are Advised - The filing fee for a § 2241 or § 2254 petition is \$5.00. If you have the money to pay the filing fee, you should send a cashier's check or money order for \$5.00, payable to the clerk of court with your complaint. There is no filing fee for a motion to vacate, set aside, or correct sentence pursuant to § 2255.

Note: Regardless of whether you are filing a petition pursuant to § 2241, § 2254, or a motion pursuant to § 2255, you must have an authorized officer attach a printout of your prison trust account activity statement for the six months prior to the filing of your petition.

In the Case of

Docket No. _____
(To be Supplied by Clerk)

Personal Information - continued

In addition, if you are a prisoner, you must have an authorized officer attach a printout of your prison trust account statement showing transactions for the six-month period immediately preceding the filing of your complaint, motion, or petition and showing the balance of your release account. You must also complete the attached "Authorization for Release of Institutional Account Information and Payment of the Filing Fee."

3) Are you currently married? ☐ Yes ☐ No

If yes, is your spouse employed? ☐ Yes ☐ No

4) Do you have any legal dependents (children/adults) whom you are responsible for supporting?

☐ Yes ☐ No

If yes, list them below:

<u>First and Last Initials (For Minor Children Only) or Name</u>	<u>Relationship To You</u>	<u>Age</u>	<u>Amount of Support Provided Per Month</u>
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

Property – If you are married, your answers must ***include your spouse's property.***

1) Do you own a car? ☐ Yes ☐ No

If yes, list car(s) below:

<u>Model and Make</u>	<u>Year</u>	<u>Approximate Current Value</u>
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

2) Do you own your residence(s)? ☐ Yes ☐ No

If yes, state the approximate value(s). \$ _____

3) Do you own any other valuable tangible property, including but not limited to, jewelry, artwork, or antiques?

☐ Yes ☐ No

Property - continued

If yes, identify the property and its approximate value(s).

<u>Property</u>	<u>Approximate Value</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____

- 4) Do you have any cash or checking, savings, or other similar accounts? ☐ Yes ☐ No

If yes, state the total amount of such sums. \$ _____

- 5) Do you own any intangible property, including but not limited to stocks, bonds, trusts, or individual retirement accounts (e.g., IRA, 401k)?

☐ Yes ☐ No

If yes, state the nature of that property and the approximate value(s).

Income – If you are married, your answers **must include your spouse's income**.

(When calculating income, you must include any salary, child support, public assistance, unemployment compensation, disability payments, life insurance payments, pensions, annuities, workers' compensation, stock dividends and interest, gifts, and inheritance, or other incoming monies.)

State your total monthly income? \$ _____

State your spouse's total monthly income? \$ _____

Expenses – If you are married and/or have dependents, **your expenses should also include your household's expenses**.

(When calculating household expenses, you may include groceries, clothing, medical costs, utilities which are not included in your rental payments, transportation, and insurance).

- 1) Identify the following amounts that you pay per month:

☐ Rent or ☐ Mortgage \$ _____

Car payment(s) \$ _____

Expenses - continued

Alimony and/or court-ordered
child support \$ _____

Credit card payment(s) \$ _____

2) Do you have any other monthly expenses that you have not already identified?

☐ Yes ☐ No

If yes, list them below:

<u>Expense</u>	<u>Amount</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

3) What is the total amount of your monthly expenses? \$ _____

Other Circumstances – *Describe any other financial circumstance(s) that you would like the court to consider when reviewing this petition.*

Date

Signature – Signed Under Penalty of Perjury

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

In the Case of

v.

Docket No. _____
(To be Supplied by Clerk)

AUTHORIZATION FOR RELEASE OF INSTITUTIONAL ACCOUNT INFORMATION AND
PAYMENT OF THE FILING FEE

Instructions

Use this Authorization:

If you are a prisoner filing a civil rights or other civil action, complete this authorization.

Do not use this Authorization:

1. If you are not a prisoner
2. If you are a prisoner or are "in custody" and are petitioning the court for a writ of habeas corpus under § 2254 or § 2241
3. If you are a prisoner filing a motion to vacate, set aside, or correct your sentence under § 2255.

* * * * *

I, _____
(Name of Plaintiff)

(Prison I.D. Number)

I authorize the clerk of court to obtain from the agency having custody of my person, information about my prison trust account, including balances, deposits, and withdrawals until the filing fee is paid. I understand that, when sufficient funds exist in my prison trust account, I will be required to pay an initial partial filing fee equal to 20 percent of the greater of: (A) the average monthly deposits to my account for the six-month period immediately preceding the filing of my complaint or notice of appeal, or (B) the average monthly balance in my account for the six-month period immediately preceding the filing of the complaint or notice of appeal. I understand and hereby authorize that, after payment of the initial partial filing fee, monthly payments will be forwarded to the clerk of court equal to 20 percent of the preceding month's income credited to my account. I hereby authorize the agency or facility having custody of my person to withdraw funds from my prison trust account and forward such payments from my account to the clerk of court each time the amount in the account exceeds \$10.00, until the filing fee is paid as set forth in 28 U.S.C. § 1915(b)(2).

(Signature of Plaintiff)

(Date)

NOTE: A CERTIFIED COPY OF YOUR PRISON TRUST ACCOUNT STATEMENT SHOWING TRANSACTIONS FOR THE SIX-MONTH PERIOD IMMEDIATELY PRECEDING THE FILING OF YOUR COMPLAINT MUST ACCOMPANY THIS PETITION AND AFFIDAVIT. (Statements are required for any prison or jail trust accounts you have had over the prior six months.)